

File No. 597

(Reprint of File No. 210)

Substitute House Bill No. 5316  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
April 24, 1998

AN ACT CONCERNING VIOLATIONS OF CONDITIONS OF  
RELEASE AND THE DISCLOSURE OF INFORMATION BY THE  
OFFICE OF THE BAIL COMMISSION.

Be it enacted by the Senate and House of  
Representatives in General Assembly convened:

1 Section 1. (NEW) (a) A person is guilty of  
2 violation of conditions of release when, while  
3 charged with the commission of a felony,  
4 misdemeanor or motor vehicle violation for which a  
5 sentence to a term of imprisonment may be imposed,  
6 he is released pursuant to subsection (b) of  
7 section 54-63d of the general statutes, as amended  
8 by section 3 of this act, or subsection (c) of  
9 section 54-64a of the general statutes, on the  
10 condition that he (1) avoid all contact with the  
11 alleged victim or (2) not use or possess a  
12 dangerous weapon, and he intentionally violates  
13 that condition.

14 (b) Violation of conditions of release is a  
15 class A misdemeanor.

16 Sec. 2. Section 53a-40b of the general  
17 statutes is repealed and the following is  
18 substituted in lieu thereof:

19 A person convicted of an offense committed  
20 while released pursuant to sections 54-63a to

21 54-63g, inclusive, AS AMENDED BY THIS ACT, or  
22 sections 54-64a to 54-64c, inclusive, OTHER THAN A  
23 VIOLATION OF SECTION 1 OF THIS ACT, may be  
24 sentenced, in addition to the sentence prescribed  
25 for the offense to (1) a term of imprisonment of  
26 not more than ten years if the offense is a  
27 felony, or (2) a term of imprisonment of not more  
28 than one year if the offense is a misdemeanor.

29 Sec. 3. Section 54-63d of the general  
30 statutes, as amended by public act 97-53, is  
31 repealed and the following is substituted in lieu  
32 thereof:

33 (a) Upon notification by a police officer  
34 pursuant to section 54-63c that an arrested person  
35 has not posted bail, a bail commissioner shall  
36 promptly conduct an interview and investigation as  
37 specified in subdivisions (1) and (2) of  
38 subsection (a) of section 54-63b and, based upon  
39 criteria established pursuant to subdivision (2)  
40 of subsection (c) of section 54-63b, he shall  
41 promptly order release of such person on the first  
42 of the following conditions of release found  
43 sufficient to provide reasonable assurance of his  
44 appearance in court: (1) Upon his execution of a  
45 written promise to appear without special  
46 conditions; (2) upon his execution of a written  
47 promise to appear with any of the nonfinancial  
48 conditions as specified in subsection (b) of this  
49 section; (3) upon his execution of a bond without  
50 surety in no greater amount than necessary; (4)  
51 upon his execution of a bond with surety in no  
52 greater amount than necessary. If the person is  
53 unable to meet the conditions of release ordered  
54 by the bail commissioner, he shall so inform the  
55 court in a report prepared pursuant to subdivision  
56 (4) of subsection (a) of section 54-63b.

57 (b) In addition to or in conjunction with any  
58 of the conditions enumerated in subdivisions (1)  
59 to (4), inclusive, of subsection (a) of this  
60 section, the bail commissioner may impose  
61 nonfinancial conditions of release, which may  
62 require that the arrested person do any of the  
63 following: (1) Remain under the supervision of a  
64 designated person or organization; (2) comply with  
65 specified restrictions on his travel, association  
66 or place of abode; (3) not engage in specified  
67 activities, including the use or possession of a  
68 dangerous weapon, an intoxicant or controlled

69 substance; (4) avoid all contact with an alleged  
70 victim of the crime and with a potential witness  
71 who may testify concerning the offense; or (5)  
72 satisfy any other condition that is reasonably  
73 necessary to assure the appearance of the person  
74 in court. Any of the conditions imposed under  
75 subsection (a) of this section and this subsection  
76 by the bail commissioner shall be effective until  
77 the appearance of such person in court.

78 (c) The police department shall promptly  
79 comply with the order of release of the bail  
80 commissioner, except that if the department  
81 objects to the order or any of its conditions, the  
82 department shall promptly so advise a state's  
83 attorney or assistant state's attorney, the bail  
84 commissioner and the arrested person. The state's  
85 attorney or assistant state's attorney may  
86 authorize the police department to delay release,  
87 until a hearing can be had before the court then  
88 sitting for the geographical area which includes  
89 the municipality in which the arrested person is  
90 being detained or, if the court is not then  
91 sitting, until the next sitting of said court.

92 (d) Except as provided in subsections (e) and  
93 (f) of this section, all information provided to  
94 the Office of the Bail Commission shall be for the  
95 sole purpose of determining and recommending the  
96 conditions of release, and shall otherwise be  
97 confidential and retained in the files of the  
98 Office of the Bail Commission, and not be subject  
99 to subpoena or other court process for use in any  
100 other proceeding or for any other purpose.

101 (e) The Chief Bail Commissioner shall  
102 establish written procedures for the release of  
103 information contained in reports and files of the  
104 Office of the Bail Commission, such procedures to  
105 be approved by the executive committee of the  
106 judges of the Superior Court. Such procedures  
107 shall allow access to (1) nonidentifying  
108 information by qualified persons for purposes of  
109 research related to the administration of criminal  
110 justice; (2) all information provided to the  
111 Office of the Bail Commission by probation  
112 officers for the purposes of compiling presentence  
113 reports; and (3) all information provided to the  
114 Office of the Bail Commission concerning any  
115 person convicted of a crime and held in custody by  
116 the Department of Correction.

117 (f) Any files and reports held by the Office  
118 of the Bail Commission may be disclosed to (1) the  
119 Office of Adult Probation for the purposes of  
120 conducting investigations required under sections  
121 54-76d and 54-91a and of supervising persons  
122 placed on probation, (2) THE FAMILY DIVISION OF  
123 THE SUPERIOR COURT FOR THE PURPOSE OF PREPARING  
124 WRITTEN OR ORAL REPORTS REQUIRED UNDER SUBSECTIONS  
125 (c) AND (d) OF SECTION 46b-38c, AS AMENDED, AND  
126 (3) AGENCIES AND ORGANIZATIONS UNDER CONTRACT WITH  
127 THE OFFICE OF ALTERNATIVE SANCTIONS FOR THE  
128 PURPOSE OF MONITORING ARRESTED PERSONS REFERRED  
129 UNDER SUBSECTION (b) OF THIS SECTION OR SUBSECTION  
130 (c) OF SECTION 54-64a.

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"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

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**FISCAL IMPACT STATEMENT – BILL NUMBER SHB 5316**

STATE IMPACT	Potential explanation	Future below	Cost,	see
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MUNICIPAL IMPACT None

STATE AGENCY(S) Criminal Justice Agencies

EXPLANATION OF ESTIMATES:

The bill's provisions concerning enhanced criminal penalties would result in increased pressures on the criminal justice system. Over the long term, these pressures would lead to a need for increased criminal justice resources, especially for incarceration and community supervision.

It should be noted that sHB 5021 (the revised Appropriations Act for FY 1998-99 as favorably reported by Appropriations) includes \$5.4 million to address overcrowding in the state's prisons and jails. In addition, the Public Defender Services Commission is currently under suit by the American Civil Liberties Union relating to the adequacy of funding for public defenders. Increases in criminal penalties will at some point require additional funds for criminal justice agencies in order to maintain adequate enforcement of other criminal laws.

House "A" established one degree of penalty for violations of conditions of release and reduced the fiscal impact.

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**OLR AMENDED BILL ANALYSIS**

sHB 5316 (as amended by House "A")\*

**AN ACT CONCERNING VIOLATIONS OF CONDITIONS OF RELEASE  
AND THE DISCLOSURE OF INFORMATION BY THE OFFICE OF THE  
BAIL COMMISSION**

**SUMMARY:** This bill makes it a crime to intentionally contact an alleged crime victim or use or possess a dangerous weapon when pretrial release conditions prohibit such contact, use, or possession. Violators are subject to a prison term of up to one year, a fine of up to \$2,000, or both.

The bill applies to people on pretrial release who are charged with a felony, misdemeanor, or motor vehicle violation that carries a possible prison term.

The bill authorizes the Bail Commission to disclose its files and reports to the Superior Court's Family Division to enable it to prepare written and oral reports required in connection with family violence cases. It also authorizes the commission to disclose its files and reports to agencies and organizations under contract with the Office of Alternative Sanctions to monitor people released on bail by the court.

\*House Amendment "A" reduces from a class C felony to a class A misdemeanor the penalty for violating conditions of release while charged with a felony. A class C felony is punishable by a prison term of up to 10 years in prison, a fine of up to \$10,000, or both.

EFFECTIVE DATE: October 1, 1998

**BACKGROUND****Hearing on Violation of Condition of Release**

The law allows the court, on the application of a prosecutor and on a finding of probable cause, to order the defendant to appear for an evidentiary hearing concerning an alleged violation of a condition of release. An order to appear must be served on the defendant in person, by registered or certified mail, or by leaving it with a suitable person residing at the defendant's residence. If after the hearing the court

finds that the person has violated a condition of release, it may impose new or additional ones (CGS Sec. 54-64f).

If the person is accused of a crime punishable by at least 10 years imprisonment, the court may revoke the release if it finds by clear and convincing evidence that he violated a condition and endangered someone's safety. It is a rebuttable presumption that his release should be revoked if (1) the defendant is charged with a crime punishable by at least 10 years imprisonment, (2) the court finds by clear and convincing evidence that someone's safety has been endangered by his release, and (3) there is probable cause to believe that he has committed a crime while released. The Practice Book authorizes the court to impose new or additional conditions of release or revoke the release of anyone who violates a condition of release (CGS Secs. 54-64f(b) and (c)).

### **Enhanced Penalties**

The law allows the court to sentence anyone convicted of an offense committed while on release to an extra sentence in addition to the regular penalty for the offense. This additional term can be up to 10 years for a felony and up to one year for a misdemeanor (CGS Sec. 54-64f(b)).

### **Legislative History**

The House referred the bill to the Appropriations Committee on April 8th. That committee reported it out without change on April 17.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 35      Nay 0

Appropriations Committee

Joint Favorable Report  
Yea 45      Nay 0